

ENTERED

July 19, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LEROY DEBOSE,
TDCJ #251249,

§

§

§

Plaintiff,

§

§

v.

CIVIL ACTION NO. H-16-2120

§

§

TDCJ PAROLE DIVISION, et al.,

§

§

Defendant.

§

MEMORANDUM OPINION AND ORDER

Plaintiff Leroy Debose (TDCJ #251249), is an inmate incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division ("TDCJ"). Debose has filed a Complaint Under 42 U.S.C. § 1983, Civil Rights Act ("Complaint"), alleging that he has been wrongfully denied parole (Docket Entry No. 1, p. 5). He has also filed an Application to Proceed In Forma Pauperis (Docket Entry No. 2). After reviewing all of the pleadings, the court concludes that this case must be dismissed for reasons explained briefly below.

I. Discussion

Under the "three-strikes" rule found in 28 U.S.C. § 1915(g), a prisoner is not allowed to bring a civil action in forma pauperis in federal court if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for

failure to state a claim upon which relief may be granted unless he is in "imminent danger of serious physical injury." 28 U.S.C. § 1915(g); Adepegba v. Hammons, 103 F.3d 383, 385 (5th Cir. 1996).

A national case index reflects that at least three prisoner civil actions or appeals filed by Debose have been dismissed by the federal courts for failure to state a claim upon which relief may be granted. See Debose v. Thayler, et al., Civil No. H-02-2025 (S.D. Tex. Oct. 30, 2002); Debose v. Williams, et al., Civil No. 4:10-445 (W.D. Tex. Sept. 2, 2010); Debose v. Williams, et al., Appeal No. 10-50884 (5th Cir. April 28, 2011). Thus, Debose has at least three "strikes" against him for filing meritless actions prior to filing the Complaint in this case.

Debose takes issue with parole review proceedings and multiple set-offs or suspensions of review over the course of his life sentence. See Memorandum of Law in Support of Plaintiff's 1983, Docket Entry No. 1-1, pp. 1-2, 4. Debose does not allege facts showing that he is currently under imminent danger of serious physical injury for purposes of § 1915(g). Because he does not fit within the exception to the three-strikes rule, Debose is not eligible to proceed without prepayment of the filing fee. Accordingly, this case will be dismissed.

II. Conclusion and Order

Accordingly, the court **ORDERS** as follows:

1. The Application to Proceed In Forma Pauperis (Docket Entry No. 2) is **DENIED**.

2. This case is **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1915(g).
3. Plaintiff may refile his Complaint if he pays the filing fee (\$400.00) within thirty days of the date of this Memorandum Opinion and Order.

The Clerk will provide copies of this Memorandum Opinion and Order to the parties; and to the Clerk of the United States District Court for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Attention: Manager of the Three-Strikes List.

SIGNED at Houston, Texas, on this 19th day of July, 2016.



SIM LAKE
UNITED STATES DISTRICT JUDGE